

## § 301.38-2

*Two years' growth.* The growth of a plant during all growing seasons of 2 successive calendar years.

[54 FR 32791, Aug. 10, 1989; 54 FR 38494, Sept. 18, 1989; 67 FR 8178, Feb. 22, 2002]

### § 301.38-2 Regulated articles.

(a) The following are regulated articles:<sup>3</sup>

(1) All seedlings and plants of less than 2 years' growth of the genus *Berberis*.

(2) All plants, seeds, fruits, and other plant parts capable of propagation from the following rust-resistant *Berberis* species.

- B. aggregata* x *B. wilsoniae* 'Pirate King'
- B. 'Amstelveen'*
- B. aridocalida*
- B. beaniana*
- B. buxifolia*
- B. buxifolia nana*
- B. calliantha*
- B. candidula*
- B. candidula* 'Amstelveen'
- B. candidula* x *B. verruculosa* 'Amstelveen'
- B. cavallieri*
- B. chenaulti*
- B. chenaulti* 'Apricot Queen'
- B. circumserata*
- B. concinna*
- B. coxii*
- B. darwini*
- B. dasystachya*
- B. dubia*
- B. feddeana*
- B. formosana*
- B. franchetiana*
- B. gagnepainii*
- B. gagnepainii* 'Chenault'
- B. gilgiana*
- B. gladwynensis*
- B. gladwynensis* 'William Penn'
- B. gyalica*
- B. heterophylla*
- B. horvathi*
- B. hybrido-gagnepainii*
- B. insignis*
- B. integerrima* 'Wallich's Purple'
- B. julianae*
- B. julianae* 'Nana'
- B. julianae* 'Spring Glory'

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- B. koreana*
- B. koreana* x *B. thunbergii* hybrid *Bailsel*
- B. koreana* x *B. thunbergii* hybrid *Tara*
- B. lempergiana*
- B. lepidifolia*
- B. linearifolia*
- B. linearifolia* var. 'Orange King'
- B. lologensis*
- B. lologensis* 'Mystery Fire'
- B. manipurana*
- B. media* 'Park Jewel'
- B. media* 'Red Jewel'
- B. mentorensis*
- B. pallens*
- B. poirettii* 'BJG 073', 'MTA'
- B. potanini*
- B. Renton*
- B. replicata*
- B. sanguinea*
- B. sargentiana*
- B. sikkimensis*
- B. soulieana* 'Claret Cascade'
- B. stenophylla*
- B. stenophylla diversifolia*
- B. stenophylla gracilis*
- B. stenophylla irwini*
- B. stenophylla nana compacta*
- B. taliensis*
- B. telomaica artisepala*
- B. thunbergii*
- B. thunbergii* 'Antares'
- B. thunbergii argenteo marginata*
- B. thunbergii atropurpurea*
- B. thunbergii atropurpurea erecta*
- B. thunbergii atropurpurea* erecta *Marshalli*
- B. thunbergii atropurpurea* 'Golden Ring'
- B. thunbergii atropurpurea* 'Intermedia'
- B. thunbergii atropurpurea* 'Knight Burgundy'
- B. thunbergii atropurpurea nana*
- B. thunbergii atropurpurea* 'Redbird'
- B. thunbergii atropurpurea* 'Rose Glow'
- B. thunbergii aurea*
- B. thunbergii* 'Aurea Nana'
- B. thunbergii* 'Bagatelle'
- B. thunbergii* 'Bailgreen' (Jade Carousel™)
- B. thunbergii* 'Bailone'
- B. thunbergii* 'Bailone' (Ruby Carousel®)
- B. thunbergii* 'Baittwo'
- B. thunbergii* 'Baittwo' (Burgundy Carousel®)
- B. thunbergii* 'Bonanza Gold'

<sup>3</sup>Permit and other requirements for the interstate movement of black stem rust organisms are contained in part 330 of this chapter.

- B. thunbergii* 'Concorde'  
*B. thunbergii* 'Crimson Pygmy'  
*B. thunbergii* 'Criruzam' Crimson Ruby™  
*B. thunbergii* 'Dwarf Jewell'  
*B. thunbergii* *erecta*  
*B. thunbergii* 'globe'  
*B. thunbergii* 'golden'  
*B. thunbergii* 'Golden Pygmy'  
*B. thunbergii* 'Green Carpet'  
*B. thunbergii* 'Harlequin'  
*B. thunbergii* 'Helmond Pillar'  
*B. thunbergii* 'Kobold'  
*B. thunbergii* 'Lime Glow'  
*B. thunbergii* 'Lustre Green'  
*B. thunbergii* *maximowiczi*  
*B. thunbergii* 'Midruzam' Midnight Ruby™  
*B. thunbergii* *minor*  
*B. thunbergii* 'Monlers'  
*B. thunbergii* 'Monomb'  
*B. thunbergii* 'Monry'  
*B. thunbergii* 'Painter's Palette'  
*B. thunbergii* 'Pink Queen'  
*B. thunbergii* *pluriflora*  
*B. thunbergii* 'Royal Burgundy'  
*B. thunbergii* 'Royal Cloak'  
*B. thunbergii* 'Sparkle'  
*B. thunbergii* 'Thornless'  
*B. thunbergii* 'Upright Jewell'  
*B. thunbergii* *variegata*  
*B. thunbergii* *xanthocarpa*  
*B. thunbergii* 'Bailsel' (Golden Carousel®)  
*B. thunbergii* 'Tara' (Emerald Carousel®)  
*B. triacanthophora*  
*B. triculosa*  
*B. verruculosa*  
*B. virgatorum*  
*B. workingensis*  
*B. xanthoxylon*  
*B.×carminea* 'Pirate King'  
*B.×frikartii* 'Amstelveen'
- (3) All plants, seedlings, seeds, fruits, and other plant parts capable of propagation from the following rust-resistant *Mahoberberis* and *Mahonia* species, except *Mahonia* cuttings for decorative purposes:
- (i) Genus *Mahoberberis*:
- M. aqui-candidula*  
*M. aquifolium* 'Smaragd'  
*M. aqui-sargentiae*  
*M. miethkeana*  
*M.×Magic'*
- (ii) Genus *Mahonia*:
- M. amplexens*  
*M. aquifolium*
- M. aquifolium* *atropurpurea*  
*M. aquifolium* *compacta*  
*M. aquifolium* *compacta* 'John Muir'  
*M. aquifolium* 'Donewell'  
*M. aquifolium* 'Kings Ransom'  
*M. aquifolium* 'Orangee Flame'  
*M. aquifolium* 'Undulata'  
*M. aquifolium* 'Winter Sun'  
*M. Arthur Menzies'*  
*M. bealei*  
*M. dictyota*  
*M. fortunei*  
*M. Golden Abundance'*  
*M. japonica*  
*M. japonica* × *M. lomariifolia* 'Charity'  
*M. lomariifolia*  
*M. nervosa*  
*M. pinnata*  
*M. pinnata* 'Ken Hartman'  
*M. piperiana*  
*M. pumila*  
*M. repens*  
*M.×media* 'Charity'  
*M.×media* 'Winter Sun'
- (4) All plants, seeds, fruits, and other plant parts capable of propagation from rust-susceptible species and varieties of the genera *Berberis*, *Mahoberberis*, and *Mahonia*, and seedlings from rust-susceptible species and varieties of the genera *Mahoberberis* and *Mahonia*, except *Mahonia* cuttings for decorative purposes.
- (5) Any other product or article not listed in paragraphs (a)(1) through (a)(4) of this section that an inspector determines presents a risk of spread of black stem rust. The inspector must notify the person in possession of the product or article that it is subject to the provisions of this subpart.
- (b) A person may request that an additional rust-resistant variety be added to paragraph (a)(2) or (a)(3) of this section. The person requesting that a rust-resistant variety be added to paragraph (a)(2) or (a)(3) of this section must provide APHIS with a description of the variety, including a written description and color pictures that can be used by an inspector to clearly identify the variety and distinguish it from other varieties.
- (Approved by the Office of Management and Budget under control number 0579-0186)
- [67 FR 8179, Feb. 22, 2002]